
Minutes of an ordinary meeting of the Development Support Special Committee held in the Council Chamber of the Administration Centre, 19 King Edward Street, Ulverstone on Monday, 10 April 2017 commencing at 6.00pm

Members attendance

Cr Jan Bonde (Mayor)	Cr Garry Carpenter
Cr Kathleen Downie (proxy)	Cr Tony van Rooyen
Cr Philip Viney	Ms Sandra Ayton

Members apologies

Nil

Employees attendance

Director Community Services (Mr Cor Vander Vlist)
Land Use Planning Group Leader (Mr Ian Sansom)

Public attendance

Five members of the public attended during the course of the meeting.

CONFIRMATION OF MINUTES OF THE COMMITTEE

19/2017 Confirmation of minutes

The Director Community Services reported as follows:

“The minutes of the previous meeting of the Development Support Special Committee held on 14 March 2017 have already been circulated. The minutes are required to be confirmed for their accuracy.

The *Local Government (Meeting Procedures) Regulations 2015* provide that in confirming the minutes of a meeting, debate is allowed only in respect of the accuracy of the minutes.”

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- Cr Carpenter moved and Cr Viney seconded, “That the minutes of the previous meeting of the Development Support Special Committee held on 14 March 2017 be confirmed.”

Carried unanimously

MAYOR’S COMMUNICATIONS

20/2017 Mayor’s communications

The Mayor reported as follows:

“Under the terms of appointment of the Development Support Special Committee, it acts in agreed circumstances as if it were the Council and, accordingly, as a planning authority under the *Land Use Planning and Approvals Act 1993*.

Members are reminded that the *Local Government (Meeting Procedures) Regulations 2015* provide that the general manager is to ensure that the reasons for a decision by a council acting as a planning authority are recorded in the minutes.

In the event that items listed for consideration are referred, under the terms of the Committee’s appointment, to the Council (e.g. any matter the Committee cannot determine unanimously), or if the Committee is unable to make a determination within the relevant statutory time limit, such items will be referred to a meeting of the Council for a decision.”

- Cr Downie moved and Cr Viney seconded, “That the Mayor’s report be received.”

Carried unanimously

DECLARATIONS OF INTEREST

21/2017 Declarations of interest

The Mayor reported as follows:

“Members are requested to indicate whether they have, or are likely to have, a pecuniary (or conflict of) interest in any item on the agenda.”

The Director Community Services reported as follows:

“The *Local Government Act 1993* provides that a member must not participate at any meeting of a special committee in any discussion, nor vote on any matter, in respect

of which the member has an interest or is aware or ought to be aware that a close associate has an interest.

Members are invited at this time to declare any interest they have on matters to be discussed at this meeting. If a declaration is impractical at this time, it is to be noted that a member must declare any interest in a matter before any discussion on that matter commences.

All interests declared will be recorded in the minutes at the commencement of the matter to which they relate.”

No interests were declared at this time.

ADJOURNMENT OF MEETING

22/2017 Adjournment of meeting

The Mayor reported as follows:

“In order to effectively consider the reports before this meeting of the Committee it is appropriate that I adjourn the meeting to enable the related documents to be workshopped prior to resumption of the meeting and formal resolution of the agenda items.”

The workshop commenced at 6.02pm. The workshop having been concluded, the Mayor resumed the meeting at 6.17pm.

DEPUTATIONS

23/2017 Deputations

The Director Community Services reported as follows:

“No requests for deputations to address the meeting or to make statements or deliver reports have been made.”

OPEN REPORTS

24/2017 Residential (multiple dwellings x two) – discretionary use class in Rural Resource Zone and variation to location of a sensitive use at CT7334/4 Stubbs Road, Forth – Application No. DA216158

The Director Community Services reported as follows:

“The Town Planner has prepared the following report:

<i>DEVELOPMENT APPLICATION NO.:</i>	DA216158
<i>PROPOSAL:</i>	Residential (multiple dwellings x two) discretionary use class in Rural Resource Zone and variation to location of a sensitive use
<i>APPLICANT:</i>	JMG Engineers and Planners
<i>LOCATION:</i>	CT7334/4 Stubbs Road, Forth
<i>ZONE:</i>	Rural Resource
<i>PLANNING INSTRUMENT:</i>	<i>Central Coast Interim Planning Scheme 2013</i> (the Scheme)
<i>ADVERTISED:</i>	8 March 2017
<i>REPRESENTATIONS EXPIRY DATE:</i>	23 March 2017
<i>REPRESENTATIONS RECEIVED:</i>	Two
<i>42-DAY EXPIRY DATE:</i>	14 April 2017 (extension granted until 19 April 2017)
<i>DECISION DUE:</i>	10 April 2017
<i>PURPOSE</i>	

The purpose of this report is to consider an application for two dwellings in the Rural Resource zone on land identified as CT7334/4 Stubbs Road, Forth.

Accompanying the report are the following documents:

- . Annexure 1 – location plan;
- . Annexure 2 – application documentation;
- . Annexure 3 – representations;
- . Annexure 4 – photographs.

BACKGROUND

Development description -

Application is made to construct two dwellings on a 7.97ha parcel of rural resource land. The proposal would include the following:

Dwelling 1 would be the principal dwelling. It is proposed to be 219.5m² in area, single-storey, three to four bedrooms, hexagon shaped and clad in timber veneer. The development would include a 40m² deck on the western side of the dwelling and an 18.52m² deck on the southern side of the dwelling. The dwelling height would be approximately 5.26m above natural ground level.

Dwelling 2 would be a temporary dwelling to accommodate the owners while the principal dwelling is constructed. It would be 70m² in area, 3.3m high, contain three bedrooms and be sited approximately 110m from the frontage to Stubbs Road. Following completion of the principal dwelling the second dwelling would be converted to a workshop.

On-site stormwater collection, storage of drinking water and wastewater treatment and disposal would be required.

Site description and surrounding area -

The land lies to the west of Stubbs Road, located approximately 2.78kms south of the Turners Beach residential area. The land supports an area of native bush and cleared pasture.

The land comprises Class 3 & 4 land and is located within the Kindred North Motton Proclaimed Irrigation District.

An unnamed tributary flows westerly, into the Claytons Rivulet that transects other land further to the west.

Surrounding parcels of rural land vary in size from 8ha to 41ha.

History -

The parcel of land is one of a cluster of four 7.5ha –8ha allotments subdivided in 1976.

DISCUSSION

The following table is an assessment of the relevant Scheme provisions:

26.0 Rural Resource Zone

CLAUSE	COMMENT
26.1.2 Local Area Objectives	
<p>(a) The priority purpose for rural land is primary industry dependent upon access to a naturally occurring resource;</p> <p>(b) Air, land and water resources are of importance for current and potential primary industry and other permitted use;</p> <p>(c) Air, land and water resources are protected against –</p> <p style="padding-left: 20px;">(i) permanent loss to a use or development that has no need or reason to locate on land containing such a resource; and</p> <p style="padding-left: 20px;">(ii) use or development that has potential to exclude or unduly conflict, constraint, or interfere with the practice of primary industry or any other use dependent on access to a naturally occurring resource;</p> <p>(d) Primary industry is diverse, dynamic, and innovative; and may occur on a range of lot sizes and at different levels of intensity;</p>	<p>“Residential (multiple dwellings)” is a Discretionary use of the land in the Rural Resource zone.</p> <p>(a) Proposal does not satisfy the Objective. The proposed use is not a primary industry use of the site, would not be dependent upon access to a naturally occurring resource and would not augment ongoing farm operations.</p> <p>(b) Proposal does not satisfy the Objective. The proposed development is not a Permitted use and is not reliant on air, land or water resources for primary industry production.</p> <p>(c)(i) Proposal does not satisfy the Objective. The proposal is for the use and development of land that would result in the permanent loss of a land resource for a purpose that has no need to locate on the land.</p> <p>(c)(ii) Proposal does not satisfy the Objective. The proposal is for the use and development of land that would</p>

<p>(e) All agricultural land is a valuable resource to be protected for sustainable agricultural production;</p> <p>(f) Rural land may be used and developed for economic, community, and utility activity that cannot reasonably be accommodated on land within a settlement or nature conservation area;</p> <p>(g) Rural land may be used and developed for tourism and recreation use dependent upon a rural location or undertaken in association with primary industry;</p> <p>(h) Residential use and development on rural land is appropriate only if –</p> <p>(i) required by a primary industry or a resource based activity; or</p> <p>(ii) without permanent loss of land significant for primary industry use and without constraint or interference to existing and potential use of land for primary industry purposes.</p>	<p>unduly conflict, constrain or interfere with the natural resources of air, land or water.</p> <p>(d) Not applicable. Use class is not associated with primary industry.</p> <p>(e) Not applicable. Use class is not associated with agricultural land.</p> <p>(f) Proposal does not satisfy the Objective. Proposed use could be located in other zones, such as Residential, Low Density Residential or Rural Living.</p> <p>(g) Not applicable. Use is not for tourism or recreation.</p> <p>(h)(i) Proposal does not satisfy the Objective. Proposed residential use and development is not required by a primary industry or resourced based activity.</p> <p>(h)(ii) Proposal does not satisfy the Objective. Proposed residential use and development would result in permanent loss of land for primary industry.</p>
<p>26.1.3 Desired Future Character Statements</p>	
<p>Use or development on rural land –</p>	<p>(a)(i) Proposal is not consistent with Desired Future Character Statements. The proposed use and</p>

<p>(a) may create a dynamic, extensively cultivated, highly modified, and relatively sparsely settled working landscape featuring –</p> <ul style="list-style-type: none"> (i) expansive areas for agriculture and forestry; (ii) mining and extraction sites; (iii) utility and transport sites and extended corridors; and (iv) service and support buildings and work areas of substantial size, utilitarian character, and visual prominence that are sited and managed with priority for operational efficiency <p>(b) may be interspersed with –</p> <ul style="list-style-type: none"> (i) small-scale residential settlement nodes; (ii) places of ecological, scientific, cultural, or aesthetic value; and (iii) pockets of remnant native vegetation <p>(c) will seek to minimise disturbance to –</p> <ul style="list-style-type: none"> (i) physical terrain; (ii) natural biodiversity and ecological systems; 	<p>development is not associated with a working landscape featuring agriculture or forest.</p> <p>(a)(ii) Proposal is not consistent with Desired Future Character Statements. The proposed use is not associated with mining and extraction.</p> <p>(a)(iii) Proposal is not consistent with Desired Future Character Statements. The proposed use is not associated with utility and transportation sites or corridors.</p> <p>(a)(iv) Not applicable. The proposal would not result in service and/or support buildings for agriculture, forestry, mining, extraction, utility or transport corridors.</p> <p>(b)(i) Proposal is not consistent with Desired Future Character Statements. Use and development is not within or interspersed by small scale residential settlement nodes.</p> <p>(b)(ii) Not applicable. The subject and surrounding land is not identified as places of ecological, scientific, cultural or aesthetic value.</p> <p>(b)(iii) Proposal is consistent with Desired Future Character Statements. The site supports an area of native</p>
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<ul style="list-style-type: none"> (iii) scenic attributes; and (iv) rural residential and visitor amenity; (d) may involve sites of varying size - <ul style="list-style-type: none"> (i) in accordance with the type, scale and intensity of primary industry; and (ii) to reduce loss and constraint on use of land important for sustainable commercial production based on naturally occurring resources; (e) is significantly influenced in temporal nature, character, scale, frequency, and intensity by external factors, including changes in technology, production techniques, and in economic, management, and marketing systems. 	<p>vegetation bordering a tributary to Claytons Rivulet watercourse.</p> <ul style="list-style-type: none"> (c)(i) Proposal is consistent with Desired Future Character Statements. The proposal would not unduly disturb the underlying physical terrain of the site. (c)(ii) Proposal is consistent with Desired Future Character Statements. The proposal would not unduly disturb biodiversity or ecological systems on the site, unless land clearance of native vegetation stands was undertaken. (c)(iii) Proposal is consistent with Desired Future Character Statements. The proposed use would not disturb existing scenic attributes of the site. (c)(iv) Not applicable. No identified rural residential or visitor amenity in this area. (d)(i) Proposal is not consistent with Desired Future Character Statements. The proposed use would not be associated with primary industry. (d)(ii) Proposal is not consistent with Desired Future Character Statements. Proposal is not sustainable commercial production based on a naturally occurring resource.
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	(e) Proposal is not consistent with Desired Future Character Statements. The proposed use is not significantly influenced by changes in technology, production techniques or economic management and marketing systems.
26.3 Use Standards	
26.3.1 Requirement for discretionary non-residential use to locate on rural resource land	
<p>26.3.1-(P1) Other than for residential use, discretionary permit use must:</p> <p>(a) be consistent with local area objectives;</p> <p>(b) be consistent with any applicable desired future character statement;</p> <p>(c) be required to locate on rural resource land for operational efficiency:</p> <p style="padding-left: 40px;">(i) to access a specific naturally occurring resource on the site or on adjacent land in the zone;</p> <p style="padding-left: 40px;">(ii) to access infrastructure only available on the site or on adjacent land in the zone;</p>	<p>Not applicable.</p> <p>Proposed use and development is for non-required "Residential" use (multiple dwellings x two).</p>

<ul style="list-style-type: none"> (iii) to access a product of primary industry from a use on the site or on adjacent land in the zone; (iv) to service or support a primary industry or other permitted use on the site or on adjacent land in the zone; (v) if required – <ul style="list-style-type: none"> a. to acquire access to a mandatory site area not otherwise available in a zone intended for that purpose; b. for security; c. for public health or safety if all measures to minimise impact could create an unacceptable level of risk to human health, life or property if located on land in a zone intended for that purpose; (vi) to provide opportunity for diversification, innovation, and value-adding to secure existing or potential primary industry use of the site or of adjacent land; (vii) to provide an essential utility or community service infrastructure for the municipal or regional community 	
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<p>or that is of significance for Tasmania; or</p> <p>(viii) if a cost-benefit analysis in economic, environmental, and social terms indicates significant benefits to the region; and</p> <p>(d) minimise likelihood for:</p> <p>(i) permanent loss of land for existing and potential primary industry use;</p> <p>(ii) constraint or interference to existing and potential primary industry use on the site and on adjacent land; and</p> <p>(iii) loss of land within a proclaimed irrigation district under Part 9 <i>Water Management Act 1999</i> or land that may benefit from the application of broad-scale irrigation development.</p>	
<p>26.3.2 Required Residential Use</p>	
<p>26.3.2-(A1) Residential use required as part of a use must:</p> <p>(a) be an alteration or addition to an existing lawful and structurally sound residential building;</p> <p>(b) be an ancillary dwelling to an existing lawful and structurally</p>	<p>Not applicable.</p> <p>Not a required residential use.</p>

<p>sound single dwelling;</p> <p>(c) not intensify an existing lawful residential use;</p> <p>(d) replace a lawful existing residential use;</p> <p>(e) not create a new residential use through conversion of an existing building; or</p> <p>(f) be home based business in association with occupation of an existing lawful and structurally sound residential building; and</p> <p>(g) there is no change in the title description of the site on which the residential use is located.</p>	
<p>26.3.3 Residential use</p>	
<p>26.3.3-(A1) Residential use that is not required as part of an other use must:</p> <p>(a) be an alteration or addition to an existing lawful and structurally sound residential building;</p> <p>(b) be an ancillary dwelling to an existing lawful and structurally sound single dwelling;</p> <p>(c) not intensify an existing lawful residential use;</p>	<p>(a) Non-compliant. Not an alteration or addition to an existing lawful residential building.</p> <p>(b) Non-compliant. Not an ancillary dwelling to an existing lawful single dwelling.</p> <p>(c) Not applicable. No existing lawful residential use.</p> <p>(d) Not applicable. No existing residential use on the land.</p> <p>(e) Not applicable. No other buildings on the land.</p>

<p>(d) not replace an existing residential use;</p> <p>(e) not create a new residential use through conversion of an existing building;</p> <p>(f) be an outbuilding with a floor area of not more than 100m² appurtenant to an existing lawful and structurally sound residential building; or</p> <p>(g) be home based business in association with occupation of an existing lawful and structurally sound residential building; and</p> <p>(h) there is no change in the title description of the site on which the residential use is located.</p>	<p>(f) Not applicable. Not an outbuilding.</p> <p>(g) Not applicable. Not a home based business.</p> <p>(h) Compliant. No change to the Title description is proposed.</p> <p>See "Issues" section of this report.</p>
<p>26.4 Development Standards</p>	
<p>26.4.1 Suitability of a site or lot on a plan of subdivision for use or development</p>	
<p>26.4.1-(A1) A site or each lot on a plan of subdivision must:</p> <p>(a) unless for agricultural use, have an area of not less than 1.0 hectare not including any access strip; and</p> <p>(b) if intended for a building, contain a building area</p> <p>(i) of not more than 2,000m² or 20% of the area of the</p>	<p>(a) Compliant. Land area is 7.97ha.</p> <p>(b)(i) Compliant. Proposed building area would be 289m².</p> <p>(b)(ii) Compliant. Development would be clear of applicable front, rear and side boundaries.</p> <p>(b)(iii) Not applicable. No zone boundary setbacks apply.</p>

<p>site, whichever is the greater unless a crop protection structure for an agricultural use;</p> <p>(ii) clear of any applicable setback from a frontage, side or rear boundary;</p> <p>(iii) clear of any applicable setback from a zone boundary;</p> <p>(iv) clear of any registered easement;</p> <p>(v) clear of any registered right of way benefiting other land;</p> <p>(vi) clear of any restriction imposed by a utility;</p> <p>(vii) not including an access strip;</p> <p>(viii) accessible from a frontage or access strip.</p>	<p>(b)(iv) Not applicable. No registered easements.</p> <p>(b)(v) Not applicable. No right of way benefiting other land.</p> <p>(b)(vi) Not applicable. No restriction imposed by a utility.</p> <p>(b)(vii) Not applicable. No access strip.</p> <p>(b)(viii) Compliant. Land is accessible from a frontage to Stubbs Road.</p>
<p>26.4.1-(A2) A site or each lot on a subdivision plan must have a separate access from a road:</p> <p>(a) across a frontage over which no other land has a right of access; and</p> <p>(b) if an internal lot, by an access strip connecting to a frontage over land not required as the means of access to any other land; or</p>	<p>(a) Non-compliant. The site plan shows access from a right of way that the land does not have a legal right to use. The subject land should be required to establish a legal access off Stubbs Road.</p> <p>(b) Not applicable. Not an internal Lot.</p> <p>(c) Not applicable. No legal access to a right of way connecting to a road.</p>

<p>(c) by a right of way connecting to a road –</p> <p>(i) over land not required as the means of access to any other land; and</p> <p>(ii) not required to give the lot of which it is a part the minimum properties of a lot in accordance with the acceptable solution in any applicable standard; and</p> <p>(d) with a width of frontage and any access strip or right of way of not less than 6.0m; and</p> <p>(e) the relevant road authority in accordance with the <i>Local Government (Highways) Act 1982</i> or the <i>Roads and Jetties Act 1935</i> must have advised it is satisfied adequate arrangements can be made to provide vehicular access between the carriageway of a road and the frontage, access strip or right of way to the site or each lot on a proposed subdivision plan.</p>	<p>(d) Compliant. The land has 161.53m of frontage to Stubbs Road. The development should be required to establish a legal access off Stubbs Road.</p> <p>(e) Compliant. The development would be required to establish a legal access off Stubbs Road in accordance with the <i>Local Government (Highways) Act 1982</i>.</p>
<p>26.4.1–(A3) Unless for agricultural use other than controlled environment agriculture which permanently precludes the land for an agricultural use dependent on the soil as a growth medium, a site or each lot on a plan of subdivision must be capable of connecting to a water supply:</p> <p>(a) provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>; or</p>	<p>(a) Non-compliant. Not able to connect to reticulated system.</p> <p>(b)(i) Compliant by condition. The Council’s Planning Permit would require on-site collection and storage of a potable water drinking system.</p> <p>(b)(ii)a. Non-compliant. Development is for multiple dwellings (two).</p>

<p>(b) from a rechargeable drinking water system ^{R31} with a storage capacity of not less than 10,000 litres if:</p> <p>(i) there is not a reticulated water supply; and</p> <p>(ii) development is for:</p> <p>a. a single dwelling; or</p> <p>b. a use with an equivalent population of not more than 10 people per day.</p>	<p>(b)(ii)b. Non-compliant. Development would be able to accommodate up to 12 persons in two dwellings.</p> <p>Refer to “Issues” section of this report.</p>
<p>26.4.1–(A4) Unless for agricultural use other than controlled environment agriculture which permanently precludes the land for an agricultural use dependent on the soil as a growth medium, a site or each lot on a plan of subdivision must be capable of draining and disposing of sewage and liquid trade waste:</p> <p>(a) to a sewerage system provided in accordance with the <i>Water and Sewerage Industry Act 2008</i>; or</p> <p>(b) by on-site disposal if:</p> <p>(i) sewage or liquid trade waste cannot be drained to a reticulated sewer system; and</p> <p>(ii) the development:</p>	<p>(a) Non-compliant. The site is not able to connect to the reticulated sewerage system.</p> <p>(b)(i) Compliant by condition. A Planning Permit should require compliance with the Wastewater Design report by JMG Engineers and Planners, dated February 2017.</p> <p>(b)(ii)a. Not applicable. Satisfied by (b)(iii).</p> <p>(b)(ii)b. Not applicable. Satisfied by (b)(iii).</p> <p>(b)(iii) Compliant. The Council’s Planning Permit would require compliance with the Wastewater Design report by JMG Engineers and Planners, dated February 2017.</p>

<ul style="list-style-type: none"> a. is for a single dwelling; or b. provides for an equivalent population of not more than 10 people per day; or (iii) the site has capacity for on-site disposal of domestic waste water in accordance with AS/NZS 1547:2012 On-site domestic-wastewater management clear of any defined building area or access strip. 	
<p>26.4.1-(A5) Unless for agricultural use other than controlled environment agriculture which permanently precludes the land for an agricultural use dependent on the soil as a growth medium, a site or each lot on a plan of subdivision must be capable of draining and disposing of stormwater:</p> <ul style="list-style-type: none"> (a) to a stormwater system provided in accordance with the <i>Urban Drainage Act 2013</i>; or (b) if stormwater cannot be drained to a stormwater system: <ul style="list-style-type: none"> (i) for discharge to a natural drainage line, water body or watercourse; or (ii) for disposal within the site if: <ul style="list-style-type: none"> a. the site has an area of not less than 5,000m²; 	<ul style="list-style-type: none"> (a) Not applicable. Satisfied by (b)(i). (b)(i) Compliant. Stormwater drainage to a minor tributary that drains to Claytons Rivulet. (b)(ii) Not applicable. Satisfied by (b)(i).

<ul style="list-style-type: none"> b. the disposal area is not within any defined building area; c. the disposal area is not within any area required for the disposal of sewage; d. the disposal area is not within any access strip; and e. not more than 50% of the site is impervious surface. 	
<p>26.4.2 Location and configuration of development</p>	
<p>26.4.2-(A1) A building or a utility structure, other than a crop protection structure for an agriculture use, must be setback:</p> <ul style="list-style-type: none"> (a) not less than 20.0m from the frontage; or (b) not less than 50.0m if the development is for sensitive use on land that adjoins the Bass Highway; (c) not less than 10.0m from each side boundary; and (d) not less than 10.0m from the rear boundary; or (e) in accordance with any applicable building area shown on a sealed plan. 	<ul style="list-style-type: none"> (a) Compliant. Development would be setback 110m from the frontage to Stubbs Road. (b) Not applicable. Satisfied by (a). (c) Compliant. Development would be setback 73m to the northern side boundary and 43.5m to the southern side boundary. (d) Compliant. Development would be setback 380m from the western rear boundary. (e) Not applicable. No building area on a Sealed Plan.

26.4.2-(A2) Building height must be not more than 8.5m.	Compliant. Building height is 5.26m.
<p>26.4.2 A3.1 A building or utility structure, other than a crop protection structure for an agricultural use or wind power turbines or wind power pumps, must –</p> <p>(a) not project above an elevation 15m below the closest ridgeline;</p> <p>(b) be not less than 30m from any shoreline to a marine or aquatic water body, water course, or wetland;</p> <p>(c) be below the canopy level of any adjacent forest or woodland vegetation; and</p> <p>(d) clad and roofed with materials with a light reflectance value of less than 40%.</p> <p>A3.2 Wind power turbines and wind power pumps must not exceed 20m in height.</p>	<p>A3.1</p> <p>(a) Compliant. Proposed multiple dwellings would not project above an elevation of 15m below closest ridgeline.</p> <p>(b) Compliant. Proposed multiple dwellings would be setback 57m from watercourse (creek).</p> <p>(c) Compliant. Proposed multiple dwellings would be below canopy level of vegetation located to the west of the site.</p> <p>(d) Non-compliant. Proposed multiple dwellings would be clad with stone and timber veneer materials. The rooves would be of “Zincalume” material. The Building Code of Australia (BCA) CA classifies roof colour on the basis of solar absorptance, which is deemed under the BCA to be the <i>inverse</i> of colour reflectivity. The BCA deems Zincalume to be a Medium colour, with absorptance <60%. This means reflectivity would be greater than 40%.</p> <p>A3.2 Not applicable. Not wind turbine or wind power pumps.</p>

26.4.3 Location of development for sensitive uses

26.4.3-(A1) New development, except for extensions to existing sensitive use where the extension is no greater than 30% of the existing gross floor area of the sensitive use, must –

- (a) be located not less than:
 - (i) 200m from any agricultural land;
 - (ii) 200m from aquaculture, or controlled environment agriculture;
 - (iii) 500m from the operational area boundary established by a mining lease issued in accordance with the *Mineral Resources Development Act 1995* if blasting does not occur; or
 - (iv) 1000m from the operational area boundary established by a mining lease issued in accordance with the *Mineral Resources Development Act 1995* if blasting does occur; or
 - (v) 500m from intensive animal husbandry;
 - (vi) 100m from land under a reserve management plan;
 - (vii) 100m from land designated for production forestry;

- (a)(i) Non-compliant. Proposed multiple dwellings would be setback approximately 80m from adjoining agricultural land to the south and 90m from adjoining agricultural land to the north.
- (a)(ii) Not applicable. No aquaculture, or controlled environment agriculture.
- (a)(iii) Not applicable. No non-blasting extractive industry in surrounding area.
- (a)(iv) Non-compliant. Proposed multiple dwellings would be approximately 955m from an extractive industry that has capability to blast.
- (a)(v) Compliant. No intensive animal husbandry within 500m.
- (a)(iv) Not applicable. Land is not within 100m of land under a reserve management plan.
- (a)(vii) Compliant. Land adjoins a private timber reserve that is approximately 450m to the west of the development site.

<p>(viii) 50.0m from a boundary of the land to the Bass Highway, or to a railway line; and</p> <p>(ix) clear of any restriction imposed by a utility; and</p> <p>(b) not be on land within a proclaimed irrigation district under Part 9 <i>Water Management Act 1999</i>, or land that may benefit from the application of broad-scale irrigation development.</p>	<p>(a)(viii) Compliant. Land is approximately 3kms to the Bass Highway and 3.4kms to the Western Rail Line.</p> <p>(a)(ix) Non-compliant. Land is located within the Kindred North Motton Irrigation District proclaimed under Part 9 of the <i>Water Management Act 1999</i> in August 2012.</p> <p>See “Issues” section of this report.</p>
<p>26.4.4 Subdivision</p>	
<p>26.4.4-(A1) Each new lot on a plan of subdivision must be –</p> <p>(a) a lot required for public use either State government, a Council, a Statutory authority or a corporation all the shares of which are held by or on behalf of the State, a Council or by a statutory authority.</p>	<p>Not applicable.</p> <p>No subdivision proposed.</p>
<p>26.4.5 Buildings for Controlled Environment Agriculture</p>	
<p>26.4.5-(A1) A building for controlled environment agriculture use must be a crop protection structure and the agricultural use inside the building must satisfy one of the following:</p> <p>(a) rely on the soil as a growth medium into which plants are directly sown;</p>	<p>Not applicable.</p> <p>No controlled environment agriculture proposed.</p>

(b) not alter, disturb or damage the existing soil profile if conducted in a manner which does not rely on the soil as a growth medium.	
CODES	
E1 Bushfire-Prone Areas Code	Not applicable. Not a subdivision or vulnerable or hazardous use.
E2 Airport Impact Management Code	Not applicable. No Code in this Scheme.
E3 Clearing and Conversion of Vegetation Code	Not applicable. No clearing or conversion of native threatened vegetation.
E4 Change in Ground Level Code	Not applicable. No cut or fill proposed greater than 1 m.
E5 Local Heritage Code	Not applicable. No places of local significance listed in this Scheme.
E6 Hazard Management Code	Not applicable. Site not included in a mapped hazard area.
E7 Sign Code	Not applicable. No signs proposed.
E8 Telecommunication Code	Not applicable. No telecommunications proposed.

E9 Traffic Generating Use and Parking Code	
E9.2 Application of this Code	Applicable. Applies to all use and development
E9.4 Use or development exempt from this Code	Not exempt. No Local Area Parking Scheme.
E9.5 Use Standards	
E9.5.1 Provision for parking	
E9.5.1-(A1) Provision for parking must be:	Compliant.
(a) the minimum number of on-site vehicle parking spaces must be in accordance with the applicable standard for the use class as shown in the Table to this Code;	E9 Traffic and Parking Code of the Scheme requires two car spaces per dwelling. The land has ample areas to allocate this provision. A Permit should require the applicable number of car parking spaces on the site.
E9.5.2 Provision for loading and unloading of vehicles	
E9.5.2-(A1) There must be provision within a site for:	(a) Not applicable. Not required for residential development.
(a) on-site loading area in accordance with the requirement in the Table to this Code; and	(a) Not applicable. Passenger pick-up and set-down facilities not required for residential development.
(b) passenger vehicle pick-up and set-down facilities for business, commercial, educational and retail use at the rate of one space for every 50 parking spaces.	

E9.6 Development Standards	
E9.6.2 Design of vehicle parking and loading areas	
E9.6.2 A1.1 All development must provide for the collection, drainage and disposal of stormwater; and	Compliant. The site would be able to drain, collect and dispose of stormwater on-site, clear of building sites, wastewater site and access road. A Permit should require compliance with the Standard.
E9.6.2 A1.2 Other than for development for a single dwelling in the General Residential, Low Density Residential, Urban Mixed Use and Village zones, the layout of vehicle parking area, loading area, circulation aisle and manoeuvring area must –	(a) Compliant. The site has ample area to make provision for circulation and parking areas and vehicle manoeuvring areas in accordance with AS/NZS 2890.1 (2004). A Permit should require compliance with the Standard.
(a) Be in accordance with AS/NZS 2890.1 (2004) – Parking Facilities – Off-Street Car Parking;	(b) Not applicable. Applies where 20 spaces are proposed or required.
(b) Be in accordance with AS/NZS 2890.2 (2002) Parking Facilities – Off-Street Commercial Vehicles;	(c) Not applicable. Applies where 20 spaces are proposed or required.
(c) Be in accordance with AS/NZS 2890.3 (1993) Parking Facilities – Bicycle Parking Facilities;	(d) Not applicable. Applies where 20 spaces are proposed or required.
(d) Be in accordance with AS/NZS 2890.6 Parking Facilities – Off-Street Parking for People with Disabilities;	(e) Compliant. The site has sufficient area to accommodate this requirement. A Permit should require compliance with the Standard.
(e) Each parking space must be separately accessed from the	

<p>internal circulation aisle within the site;</p> <p>(f) Provide for the forward movement and passing of all vehicles within the site other than if entering or leaving a loading or parking space; and</p> <p>(g) Be formed and constructed with compacted sub-base and an all-weather surface.</p>	<p>(f) Compliant. The site has sufficient area to accommodate this requirement. A Permit should require compliance with the Standard.</p> <p>(g) Compliant by condition. Internal roadway and car parking areas would be constructed with a compacted sub-base and an all-weather surface.</p>
<p>E9.6.2-(A2) Design and construction of an access strip and vehicle circulation, movement and standing areas for use or development on land within the Rural Living, Environmental Living, Open Space, Rural Resource, or Environmental Management zones must be in accordance with the principles and requirements for in the current edition of Unsealed Roads Manual – Guideline for Good Practice ARRB.</p>	<p>Compliant by condition. Design and construction of access, vehicle circulation, movement and standing areas would be in accordance with the principles and requirements of the <i>Unsealed Roads Manual – Guideline for Good Practice</i> ARRB. A Permit should require compliance with the Standard.</p>
<p>E10 Water and Waterways Code</p>	<p>Not applicable. Not within 30m of a waterway.</p>
<p>Specific Area Plans</p>	<p>Not applicable. No Specific Area Plans apply to this area.</p>

Issues –

1 Local Area Objectives and Desired Future Character Statements –

The purpose of the Rural Resource zone is to provide for the sustainable use and development of resources for agriculture, aquaculture, forestry, mining and other primary industries, including opportunity for resource production. The Rural Resource zones Local Area Objectives and Desired Future Character Statements together seek to promote use and development that is for primary industry purpose. The Local Area Objectives for the Rural Resource zone reference the requirement of use and development to be reliant upon, be associated with, or have an intention to use a naturally occurring resource (air, land and/or water) that is located on the subject site or adjoining land. The zone may provide for other use and development that does not constrain or conflict with resource development uses.

The Objectives seek to protect all agricultural land for sustainable agricultural production and collectively demonstrate that the primary intent of use and development in the Rural Resource zone is to minimise the loss of land for primary industry. Most particularly, minimise the loss of prime agricultural land, protect land that is located within a proclaimed irrigation district and to provide for uses that do not constrain, fetter or conflict with current or future resource development uses.

The subject proposal is not a use that is associated with primary industry. The proposal is for non-required Residential development (multiple dwellings x two). As such, the land is considered to be not appropriate for the proposed use, which could result in the constraint, fettering or interference with current or future resource development uses in the area.

The proposed use of the land is not able to satisfy the Local Area Objectives, primarily as the use does not rely on a resource that would be available on the site or on adjacent land.

Further, the proposal does not satisfy the majority of the relevant Desired Future Character Statements, primarily because the use would not result in agriculture, forestry, mining or extraction, utility or transportation activity.

2 *Development within the Kindred North Motton Proclaimed Irrigation District –*

The Central Coast municipal area accommodates two irrigation districts, proclaimed under Part 9 of the *Water Management Act 1999*. The Kindred North Motton Irrigation District, proclaimed in August 2012, and the Dial Blythe Irrigation District, proclaimed in February 2014.

The proposed development would be on land that is located within the Kindred North Motton Irrigation District.

The Kindred North Motton Irrigation District comprises 8,483ha and is expected to have the capacity to supply 2,500ML of water over the summer irrigation period, giving water security to affected lands. The Scheme is intended to service pasture and cropping land around the settlements of Kindred, Sprent, Abbotsham, Forth, Gawler, Ulverstone and North Motton. Currently, the production of potatoes, other vegetables, poppies, cereals, pyrethrum, berries and dairy produce are the primary activities in these areas.

It is considered the proposed development would exclude the property from future broad scale irrigation and associated resource production. Development would place a sensitive use within a recently established irrigation district, where surrounding property may also be able to benefit and augment production from the “roll out” of the Irrigation Scheme.

3 *Discretionary Non-Required Residential Use on Rural Resource land –*

The proposed development does not meet the Scheme's Standards of Clause 26.3.3-(A1) for a non-required “Residential” use to locate on Rural Resource land. It is mandatory that the proposal satisfies the Scheme’s Performance Criteria.

Performance Criteria 26.3.3-(P1) states the following:

“ Residential use that is not required as part of other use must-

- (a) be consistent with local area objectives;
- (b) be consistent with any applicable desired future character statement;

-
- (c) be on a site within which the existing or proposed development area –
 - (i) is not capable by reason of one or more of factors of topography, resource capability, size or shape of being utilised for resource development or extractive industry use; and
 - (ii) is not capable of utilisation in the operations of a resource development or extract industry use; and
 - (iii) does not constrain or interfere with existing or potential resource development or extractive industry use of land including the balance area on the site.
 - (d) not be likely to impose an immediate demand or contribute to a cumulative requirement for public provision or improvement in reticulated or alternate arrangements for utilities, road access, or community service.”

The proposal is not able to satisfy the Performance Criteria. The subject property located at Stubbs Road was subdivided in 1979 and up until this time has been used for resource production. The proposal does not require to be located on Rural Resource land to access a naturally occurring resource on the subject site, or to access infrastructure only available on the subject site or adjacent land.

It is considered the proposal fails on the need to be reliant upon a primary industry resource, would constrain the future use of the land for primary industry and may constrain adjoining land and other land in the immediate vicinity from resource production activity.

4 *The development of a sensitive use on Rural Resource land –*

Residential development is defined as a “sensitive use” under the Scheme. The Scheme’s Acceptable Solution 26.4.1 requires that a sensitive use be setback a minimum of 200m from agricultural land. This is to minimise the proximity of a sensitive use to agricultural operational activities. Close proximity, less than 200m, may result in the conflict, interference or fettering of primary industry activity on adjoining agricultural land. Conflict may arise where a non-required residential use locates in close proximity to primary industry due to

differing expectations, the spraying of agricultural chemicals, pivot irrigation noise and spray, dust, and the activities of planting, ongoing maintenance and the harvesting of crops that may give rise to a nuisance to occupants of an adjoining sensitive use. In this case the property also adjoins a Private Timber Reserve and is within 950m of a blasting quarry.

The Scheme’s Performance Criteria 26.4.3–(P1) requires that the new sensitive use must minimise all of the following:

- “(a) permanent loss of land for existing and potential primary industry use;
- (b) likely constraint or interference to existing and potential primary industry use on the site and on adjacent land;
- (c) permanent loss of land within a proclaimed irrigation district under Part 9 of the Water Management Act 1999 or land that may benefit from the application of broad-scale irrigation development; and
- (d) adverse effect on the operability and safety of a major road, a railway or a utility.”

It is considered the proposed residential development would result in the permanent loss of land for existing and potential primary industry use. The proposed 75m and 45m side setbacks from agricultural land would result in a likely constraint, interference or/and fettering of primary industry activity on subject land or, more particularly, on adjacent land.

Referral advice –

Referral advice from the various Departments of the Council and other service providers is as follows:

SERVICE	COMMENTS/CONDITIONS
Environmental Health	No comment.
Infrastructure Services	No comment.
TasWater	Not applicable.

Department of State Growth	Not applicable.
Environment Protection Authority	Not applicable.
TasRail	Not applicable.
Heritage Tasmania	Not applicable.
Crown Land Services	Not applicable.
Other	Not applicable.

CONSULTATION

In accordance with s.57(3) of the *Land Use Planning and Approvals Act 1993*:

- . a site notice was posted;
- . letters to adjoining owners were sent; and
- . an advertisement was placed in the Public Notices section of The Advocate.

Representations -

Two representations were received within the prescribed time, copies of which are provided at Annexure 3.

The representations are summarised and responded to as follows:

MATTER RAISED	RESPONSE
REPRESENTATION 1	
1 The property in question has been a productive piece of land for grazing, the cropping of potatoes, barley and raspberries and is a valuable rural asset.	The matter of the loss of productive primary industry land to non-required residential use is discussed in the "Issues" section of this report.
2 The bush aspect of the property should be retained as a "green" belt.	There is no suggestion or application for the clearing of land along the tributary to Clayton Rivulet.

3 Intensive farming operations are undertaken nearby.	This is noted. The land in this area is prime agricultural land within the Kindred North Motton Irrigation District.
4 The Council should uphold its Rural Resource policy.	There is no Rural Resource policy. The representor is most likely making reference to the Scheme and the Objectives contained within the Scheme for the Rural Resource zone.
5 The matter of two dwellings raises concern. Why two dwellings? For a rural undertaking a single dwelling with an outbuilding is sufficient.	The application is for two dwellings that together would accommodate up to 12 people. The applicant proposes to reside in the smaller dwelling while constructing the main building.
REPRESENTATION 2	
1 The access road shown on the site plan is a right of way access to other private property. The proposal refers to this road as 'public road/private road' and it is not.	This is correct. Any development on site would need to form a legitimate access to the property off Stubbs Road.

RESOURCE, FINANCIAL AND RISK IMPACTS

The proposal has no likely impact on Council resources outside those usually required for assessment and reporting, and possibly costs associated with an appeal against the Council's determination should one be instituted.

CORPORATE COMPLIANCE

The Central Coast Strategic Plan 2014–2024 includes the following strategies and key actions:

The Environment and Sustainable Infrastructure

- Develop and manage sustainable built infrastructure.

CONCLUSION

The representations received are deemed to have merit. The proposed use and development of the land for Residential (multiple dwellings x two) – discretionary use class in Rural Resource Zone and variation to location of a sensitive use would place a “sensitive use” within the surrounds of an area that relies on primary industry, including agriculture, forestry and extractive industry, as the principal means of income and activity. It is considered the potential for land use conflict between primary industry and a non-required residential use is likely.

The proposed development is not able to meet key Local Area Objectives and Performance Criteria that seek to protect land for primary industry purpose. The proposed use is not a primary industry use of the site, would not be dependent upon access to a primary industry that is dependent upon a naturally occurring resource and the development would not augment ongoing farm operations.

It is considered the proposal would result in the permanent loss of viable agricultural land within the proclaimed Kindred North Motton Irrigation District.

Recommendation –

It is recommended that the application for Residential (multiple dwellings x two) – discretionary use class in the Rural Resource Zone and variation to location of a sensitive use at CT7334/4 Stubbs Road be refused on the following grounds:

- 1 The proposal is not able to satisfy the Local Area Objectives for development and use in the Rural Resource zone in that the proposed use and development would not protect agricultural land for sustainable, agricultural production and would not be reliant upon, be associated with, or have an intention to use a naturally occurring resource that is located on the subject site or adjoining land.
- 2 The proposal is not able to satisfy Performance Criteria for “Residential use” as stipulated under Clause 26.3.3-(P1) in that the proposed use and development would not be utilised for resource development or extractive industry, would result in the loss of agricultural land that is located within the proclaimed Kindred North Motton Irrigation District and would constrain or fetter surrounding primary industry activity.
- 3 The development is not able to satisfy the Performance Criteria relative to the “Location of Development for Sensitive Uses” as stipulated under

Clause 26.4.3-(P1), in that development less than 200m from agricultural land may result in the constraint, fettering or conflict with current or future resource development uses on the subject or adjoining land.’

The report is supported.”

The Director Community Services reported as follows:

“Copies of the Annexures referred to in the Town Planner’s report have been circulated to all Councillors.”

■ Cr Viney moved and Cr Downie seconded “That the application for Residential (multiple dwellings x two) – discretionary use class in the Rural Resource Zone and variation to location of a sensitive use at CT7334/4 Stubbs Road be refused on the following grounds:

- 1 The proposal is not able to satisfy the Local Area Objectives for development and use in the Rural Resource zone in that the proposed use and development would not protect agricultural land for sustainable, agricultural production and would not be reliant upon, be associated with, or have an intention to use a naturally occurring resource that is located on the subject site or adjoining land.
- 2 The proposal is not able to satisfy Performance Criteria for “Residential use” as stipulated under Clause 26.3.3-(P1) in that the proposed use and development would not be utilised for resource development or extractive industry, would result in the loss of agricultural land that is located within the proclaimed Kindred North Motton Irrigation District and would constrain or fetter surrounding primary industry activity.
- 3 The development is not able to satisfy the Performance Criteria relative to the “Location of Development for Sensitive Uses” as stipulated under Clause 26.4.3-(P1), in that development less than 200m from agricultural land may result in the constraint, fettering or conflict with current or future resource development uses on the subject or adjoining land.”

Voting for the motion
(4)
Cr Bonde
Cr Downie
Cr Viney
Ms Sandra Ayton

Voting against the motion
(2)
Cr van Rooyen
Cr Carpenter

Motion Carried

The meeting noted at this time that, as the matter could not be determined unanimously, it must accordingly be referred to a meeting of the Council for a decision.

Closure

There being no further business, the Mayor declared the meeting closed at 6.20pm.

CONFIRMED THIS DAY OF , 2017.

Chairperson

(cvv:km)

QUALIFIED PERSON'S ADVICE

The *Local Government Act 1993* provides (in part) as follows:

. A general manager must ensure that any advice, information or recommendation given to the council is given by a person who has the qualifications or experience necessary to give such advice, information or recommendation.

. A council is not to decide on any matter which requires the advice of a qualified person without considering such advice unless the general manager certifies in writing that such advice was obtained and taken into account in providing general advice to the council.

I therefore certify that with respect to all advice, information or recommendation provided to the Development Support Special Committee within these minutes:

(i) the advice, information or recommendation was given by a person who has the qualifications or experience necessary to give such advice, information or recommendation; and

(ii) where any advice was directly given by a person who did not have the required qualifications or experience that person has obtained and taken into account in that person's general advice the advice from an appropriately qualified or experienced person.



Sandra Ayton
GENERAL MANAGER